

ESTTA Tracking number: **ESTTA652920**

Filing date: **01/29/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91220166
Party	Defendant The Wine Group, LLC
Correspondence Address	DIJANA KRISTO THE WINE GROUP LLC 4596 S TRACY BLVD TRACY, CA 95377-8106 UNITED STATES DIJANA.KRISTO@THEWINEGROUP.COM, JOHN.SUTTON@THEWINEGROUP.COM
Submission	Answer
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Date	01/29/2015
Attachments	Floret Answer.pdf(41397 bytes)

1 **BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE**
2 **TRADEMARK TRIAL AND APPEAL BOARD**

3
4 Application Serial No. 86/348,425

5 Mark: FLORET

6 Class: 33

7 _____)
8 **FLOWERS VINEYARD AND WINERY,**)
9 **LLC,**)

Opposition No: 91220166

9 Opposer,)

ANSWER

10 v.)

11 **THE WINE GROUP LLC.,**)

12 Applicant.)
13 _____)

14 For its Answer, Applicant through its counsel responds as follows:

15 1. The first sentence of Paragraph 1 of the Notice of Opposition is admitted. The
16 remaining portions of paragraph 1 are denied.

17 2. Applicant lacks knowledge of the allegations in Paragraph 2 of the Notice of
18 Opposition and they are therefore denied.

19 3. Applicant admits that Opposer is the record owner of the registration cited in
20 Paragraph 3 of the Notice of Opposition but denies the remaining allegations of that paragraph.

21 4. The allegations of Paragraph 4 of the Notice of Opposition are denied.

22 5. The allegations of Paragraph 5 of the Notice of Opposition are admitted.

23 6. Applicant lacks knowledge of the allegations in Paragraph 6 of the Notice of
24 Opposition and they are therefore denied.

1 7. Applicant admits that it has not yet used the FLORET trademark in commerce but
2 otherwise denies the allegations in Paragraph 7 of the Notice of Opposition.

3 8. The allegations of Paragraph 8 of the Notice of Opposition are denied.

4 9. The allegations of Paragraph 9 of the Notice of Opposition are denied.

5 10. The allegations of Paragraph 10 of the Notice of Opposition are denied.

6 11. The allegations of Paragraph 11 of the Notice of Opposition are denied.

7 12. The allegations of Paragraph 12 of the Notice of Opposition are denied.

8 **AFFIRMATIVE DEFENSES**

9 Applicant asserts the following affirmative defenses, reserving its right to add additional
10 affirmative defenses as additional information is obtained through discovery.

11 **FIRST AFFIRMATIVE DEFENSE**

12 **(Abandonment By Operation of Law)**

13 Opposer's claim is barred, in whole or in part, because on information and belief the
14 assignment of the rights in registration no. 3,105,412 was an assignment in gross in that the
15 goodwill in the mark was not assigned and, therefore, the registration has been abandoned as a
16 matter of law.

17 **SECOND AFFIRMATIVE DEFENSE**

18 **(Untimely Opposition)**

19 Opposer's claim is barred, in whole or in part, because the entity that sought and was
20 granted the extension of time to oppose is a different entity than Opposer and, therefore, because
21 the Notice of Opposition was filed after the initial deadline for opposing the application the
22 Notice of Opposition is untimely.

23 //

1 **THIRD AFFIRMATIVE DEFENSE**

2 **(Void Assignment)**

3 Opposer's claim is barred, in whole or in part, because registration no. 3,105,412 was
4 assigned to a legal entity that did not exist at the time and, therefore, the assignment was void
5 and the registration has been abandoned as a matter of law.

6 **FOURTH AFFIRMATIVE DEFENSE**

7 **(Void Section 8 & 15 Declaration)**

8 Opposer's claim is barred, in whole or in part, because the Section 8 & 15 Declaration for
9 registration no. 3,105,412 was filed on behalf of a legal entity that did not t exist at the time and,
10 therefore, the Declaration was void and the registration has been abandoned as a matter of law.

11 Respectfully submitted,

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14 Dated: January 29, 2015

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on Opposer by placing a true copy thereof in the United States mail enclosed in an envelope, postage prepaid, addressed as follows to their counsel of record at his present business address:

Jennifer Lee Taylor
Morrison & Forester LLP
425 Market Street
San Francisco, CA 94105-2482

James Beith